

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRET THIELEN,

Plaintiff,

Case No. 1:06-CV-16

v

Hon. Gordon J. Quist

BUONGIORNO USA, INC., d/b/a
BLINKO,

Defendant.

ORDER

Pending before the court are Defendant's Motion for Protective Order (docket no. 66), Defendant's Emergency Motion for a Protective Order or, in the Alternative, to Quash Plaintiff's Subpoena Regarding Plaintiff's Requests for Documents From Non-Parties New Motion, Inc. And MPLC, Inc. (Docket no. 85), and Defendant's Motion for Clarification and/or Modification of Order Dated February 8, 2007 (docket no. 78). As more fully discussed on the record at the hearing held this date, the motions are resolved as follows:

Defendant's Motion for Protective Order (docket no. 66) is DENIED as moot without prejudice to defendant refiling an amended motion for protective order, if necessary, after the parties have had a chance to meet and confer pursuant to W.D. Mich. LCivR 7.1, have entered a confidentiality order, and discovery has been thereafter produced in response to pending discovery requests. **The parties are advised that the federal rules of civil procedure pertaining to discovery, as amended effective December 1, 2006, will be applied to all outstanding discovery issues remaining in this case, whether the discovery was sought prior to or after advent of the new rules.** Changes in federal rules normally apply to all then-pending cases unless it would result

in unfairness to the parties. Here, the changes in the rules are essentially procedural in nature and continue to reflect what has customarily been the law as to relevance, burdensomeness, expense, etc. The court perceives no unfairness to either party in resolving all further disputes under the amended rules, but rather some benefit in treating all disputes (whether they had their inception prior to the rule changes or have yet to arise) uniformly.

Defendant's Emergency Motion for Protective Order (docket no. 85) shall be held in abeyance pending re-issuance of proper subpoenas to non-parties, and the non-parties served have had an opportunity to respond and plaintiff has had the opportunity to file a brief in response to the motion.

Defendant's motion to clarify this court's order of February 8, 2007 (docket no. 78) is DENIED as moot, the parties having resolved the issues raised therein at the hearing held this date.

IT IS SO ORDERED.

Dated: April 4, 2007

/s/ Hugh W. Brenneman, Jr.
Hugh W. Brenneman, Jr.
United States Magistrate Judge